

**OGC HAS REVIEWED.**

Chief, Administrative Staff

31 October 1950

Legal Staff

Overtime, Holiday and Night Differential Payments.

1. The question is raised in the attached memoranda whether overtime differential payments are being correctly made on the basis of schedules set out in P.L. 106, 79th Cong., as amended (5 U.S.C. § 911). It is suggested that the Agency may be required to pay overtime at a minimum of time and one-half on the basis of an exception in P.L. 106 which provides that: "Employees whose basic rate of compensation is fixed on an annual or monthly basis, and adjusted from time to time in accordance with prevailing rates by wage boards or similar administrative authority serving the same purpose, shall be entitled to overtime pay in accordance with the provisions of" section 3 of the Act of March 28, 1934 (5 U.S.C. § 673 c).

2. It is the opinion of this office that since CIA pay schedules are based on the Compensation Act they are not determined by "wage boards or similar administrative authority." The fact that CIA is not required to adopt these schedules is of no importance in this connection, as was stated by the Comptroller General in an opinion last year (B-79556, 28 C.G. 405) which involved an overtime claim by an employee of the Panama Canal. The opinion states: "An employee's rights are no less controlled by considerations within the sphere of operation of the Classification Act method - and, therefore, not influenced by matters within the sphere of operation of the administrative or wage board method - when that act is administratively adopted as the basis for compensation fixing than when said act is required by law to be applied in fixing compensation." Also, it appears that CIA is applying the Classification Act in substance, although it is not following certain Civil Service procedures, as has been pointed out in the case of the approval of so-called super grades. Consequently, overtime payments are correctly made in accordance with the schedule set out in P.L. 106, as amended.

3. This memorandum has no reference to those few CIA employees, e.g., in the Reproduction Branch of the Services Division, whose compensation is actually fixed by wage board procedures.


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Attached:

Memo dtd 14 Sept. 1950

Memo dtd 31 Aug. 1950.

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 shw  
cc: Subject

Chrono

Legal Decisions

Vital Documents

RESTRICTED

MISSING PAGE

ORIGINAL DOCUMENT MISSING PAGE(S):

ENCLOSURE